

## 1 SENATE BILL NO. 91

2 INTRODUCED BY D. RYAN

3 BY REQUEST OF THE TRANSITION ADVISORY COMMITTEE ON ELECTRIC UTILITY INDUSTRY

4 RESTRUCTURING

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO ELECTRICAL ENERGY;  
7 REQUIRING THE PUBLIC SERVICE COMMISSION TO ESTABLISH PROCEDURES AND TERMS UNDER  
8 WHICH A CUSTOMER MAY CHOOSE AN ELECTRICITY SUPPLIER OR A DEFAULT SUPPLIER; PROVIDING  
9 THAT A DEFAULT SUPPLIER HAS A REGULATED DEFAULT SUPPLY OBLIGATION BEYOND THE END OF  
10 THE TRANSITION PERIOD; ALLOWING CUSTOMERS WHO ELECTED AN ALTERNATIVE ELECTRICAL  
11 ENERGY SUPPLIER AN OPPORTUNITY TO RECEIVE ELECTRICAL ENERGY FROM A DEFAULT  
12 SUPPLIER; PROVIDING THAT ELECTRICAL ENERGY PURCHASED FROM THE DEFAULT SUPPLIER BY  
13 A DEFAULT SUPPLY CUSTOMER MUST BE USED FOR A CONSUMPTIVE PURPOSE AND MAY NOT BE  
14 REMARKETED; AMENDING SECTIONS 69-8-104, 69-8-201, AND 69-8-416, MCA; AND PROVIDING AN  
15 IMMEDIATE EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES."

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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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19 **Section 1.** Section 69-8-104, MCA, is amended to read:

20 **"69-8-104. Pilot programs.** (1) Except as provided in 69-8-201~~(3)~~(4) and (5) and 69-8-311, utilities shall  
21 conduct pilot programs using a representative sample of their residential and small commercial customers. A  
22 report describing and analyzing the results of the pilot programs must be submitted to the commission and the  
23 transition advisory committee established in 69-8-501 on or before July 1, 2005.

24 (2) Utilities shall use pilot programs to gather necessary information to determine the most effective and  
25 timely options for providing customer choice. Necessary information includes but is not limited to:

26 (a) the level of demand for electricity supply choice and the availability of market prices for small  
27 customers;

28 (b) the best means to encourage and support the development of sufficient markets and bargaining  
29 power for the benefit of small customers;

30 (c) the electricity suppliers' interest in serving small customers and the opportunities in providing service

1 to small customers; and

2 (d) experience in the broad range of technical and administrative support matters involved in designing  
3 and delivering unbundled retail services to small customers."

4

5 **Section 2.** Section 69-8-201, MCA, is amended to read:

6 **"69-8-201. Public utility -- transition to customer choice -- waiver.** (1) A public utility shall, except  
7 as provided in this section, adhere to the following deadlines:

8 (a) ~~All~~ Subject to subsection (3), all customers with individual loads greater than 1,000 kilowatts and  
9 for loads of the same customer with individual loads at a meter greater than 300 kilowatts that aggregate to  
10 1,000 kilowatts or greater must have the opportunity to choose an electricity supplier.

11 (b) Before July 1, 2007, all other public utility customers must have the opportunity to choose an  
12 electricity supplier.

13 (2) The commission shall designate the public utility or one or more default suppliers to provide  
14 regulated default service for those ~~small~~ customers described in subsections (1)(a) and (1)(b) of a public utility  
15 that are not being served by a competitive electricity supplier. A customer who elects to receive service from a  
16 default supplier may only use the electricity for consumptive purposes and shall enter into a contract with the  
17 default supplier that prohibits the customer from remarketing the electricity. A default supplier has an ongoing  
18 regulated default supply obligation beyond the end of the transition period.

19 (3) The commission shall establish procedures and terms under which customers may choose an  
20 electricity supplier other than a default supplier or under which customers may choose to be served by a default  
21 supplier. The procedures must provide for an orderly process of choice during and after the transition period and  
22 provide conditions for leaving and returning to the default supplier. The procedures must take into account  
23 electricity supply contracts for supplying customers during the transition period. The procedures must provide  
24 for the recovery of costs associated with those customers who choose an alternative electricity supplier and who  
25 wish to return to the default supplier.

26 ~~(3)(4)~~ (4) Except as provided in 69-5-101, 69-5-102, 69-5-104 through 69-5-112, and 69-8-402, a public  
27 utility currently doing business in Montana as part of a single integrated multistate operation, no portion of which  
28 lies within the basin of the Columbia River, may defer compliance with this chapter until a time that the public  
29 utility can reasonably implement customer choice in the state of the public utility's primary service territory.

30 ~~(4)(5)~~ (5) Upon a request from a public utility with fewer than 50 customers, the commission shall waive

1 compliance with the requirements of 69-8-104, 69-8-202 through 69-8-204, 69-8-208 through 69-8-211,  
2 69-8-402, and this section."

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4 **Section 3.** Section 69-8-416, MCA, is amended to read:

5 **"69-8-416. Default supplier license.** (1) In developing licensing rules for default suppliers, the  
6 commission shall promote and facilitate the development of a competitive market for electricity supply.

7 (2) Default supplier licensing rules must ensure that:

8 (a) a default supplier, except when the default supplier is the distribution services provider, may not  
9 purchase electricity for or sell electricity to commercial or industrial electric consumers having individual accounts  
10 with an average monthly demand in the previous calendar year of 100 kilowatts or more or to new commercial  
11 or industrial electric consumers having individual accounts with an estimated monthly demand of 100 kilowatts  
12 or more;

13 (b) a default supplier may not discount its commission-approved rates to retain or gain customers;

14 (c) except as provided in 69-8-201(3), a default supplier may not obligate customers to a contractual  
15 term or service;

16 (d) federal power marketing administration power or benefits acquired by a default supplier are  
17 distributed as widely and equitably as possible among small customers and in a manner that encourages  
18 competition;

19 (e) a default supplier, except when the default supplier is the distribution services provider, may not  
20 construct, purchase, take, receive, or otherwise acquire or own, hold, equip, maintain, or operate electric  
21 generating plants or transmission or distribution lines or systems, except that a default supplier may enter into  
22 transmission or distribution agreements for the lease or use of capacity on transmission and distribution systems  
23 owned by others to supply electricity to its customers in the state;

24 (f) a default supplier may not offer for sale any products other than electricity supply or provide electricity  
25 supply to members or customers other than those residing in the state or sell electricity or otherwise engage in  
26 the marketing of electricity on the wholesale market, but may dispose of excess electricity associated with  
27 temporary load-energy imbalances.

28 (3) Except as provided in subsection (2)(e), a default supplier may provide only a single electricity  
29 supply service to all of its small customers. A default supplier may also offer an additional electricity supply  
30 service that includes a component of renewable energy.

1 (4) A default supplier may not offer other supply services unless the default supplier forms a separate  
2 entity."

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4 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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6 NEW SECTION. **Section 5. Retroactive applicability.** [This act] applies retroactively, within the  
7 meaning of 1-2-109, to customers who choose an alternative electricity supplier after June 30, 1998, and who  
8 return to the default supplier after June 30, 2002.

9 - END -